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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bruno Lhuillier

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EXAMINER

CAMPBELL, THOR S

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

08/05/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,372	Applicant(s) LHUILLIER, BRUNO	
	Examiner /Thor S. Campbell/	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-15 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 10, 11 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has attempted to obviate the prior art by adding the limitations of a "single" wire and "without contacting the tube", however, the added limitations do not have sufficient support in the originally filed specification. The applicant does not explicitly disclose or discuss the use of a "single" wire, in fact, Figure 2 suggests the existence of two legs connected together in much the same manner as the Volbrecht device. Further, applicant does not discuss that the wire does not contact the tube, but relies on the said Figure 2 to support such a limitation. It is noted that although a figure may be able to show positive structural relationships between elements, a figure can not reasonably support negative structural relationships. Although the figure may show one view in which it appears the wires do not contact the tube the figure can not be used to positively support the limitation that the wires nowhere contact the tube.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Volbrecht (4,934,831) in view of Blin (US 5183079).

In reference to claim 1.

A heater resistance for heating a solid part , the resistance comprising: an electric wire having various strands within a tube (see figure 1, as analogous to applicant's figure 2—further since applicant's figure and the prior art show two conductors similarly joined to complete the circuit forming a single wire); and a ceramic insulation surrounding the wire and interposed between the wire strands and the tube. It should be noted that Volbrecht explicitly discloses that the wires 16/18 do not contact the tube (col. 3, lines 3-4) Volbrecht does not disclose an additional ceramic sheath wherein the sheath includes a woven layer.

Blin discloses the use of a ceramic sleeve of woven character. It would have been obvious to modify the Volbrecht device to include a ceramic woven sleeve around the packed ceramic insulation in order to hold the ceramic insulation in place.

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In reference to claim 5. A heater resistance according to claim 1, further comprising a mass of electrically insulating material, interposed between the wire and the sheath.

In reference to claim 6. A heater resistance according to claim 5, wherein the insulating mass is includes a mineral.

In reference to claims 2-4, 14, the choice of material is obvious to one of skill.

In reference to claim 7. A heater resistance according to claim 1, including a portion of generally elongate shape.

In reference to claim 8. A heater resistance according to claim 1, further comprising a connector and heater segment and a connection segment adjacent to the connector, the wire having a cross-section in the connection section of area that is greater than the area of the cross-section of the wire in the heater segment. See Figure 10

In reference to claim 9. A heater resistance according to claim 1, further comprising a connector and a portion adjacent to the connector that is tapering in shape. See Figure 10.

In reference to claim 13. A method of fabricating a probe for mounting on board a vehicle for measuring an air flow parameter including temperature, the method comprising deforming a heater resistance according to claim 1 in order to enable the heater resistance to be secured to a body of the probe.

Response to Arguments

In response to Applicant's argument that Blin discloses a ceramic woven layer for a different reason than Applicant, the fact that Applicant uses a ceramic sheath for a different purpose does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference. With respect to the argument that

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Volbrecht does not teach a heater, it is noted that the preamble of the claim amounts to an intended use of the claimed device since the body of the claims can stand alone. Further it is noted that the prior art has the same structural components and despite the argument that the device can not act as a heater, electrical current passing through a resistance wire *is* subject to Ohmic heating to some extent and therefore is a heater. Applicant further argues that Volbrecht can not work as a heater since it allegedly uses "lead" wires. It appears applicant has misinterpreted that Volbrecht discloses the use of lead--chemical symbol Pb- wires. This is not the case. Volbrecht teaches the use of stranded conductors, and additionally that when making thermistors, wires 16 and 18 would be homogeneous--that is of the same rather than dissimilar materials.

Allowable Subject Matter

Claims 10-11, 15 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Thor S. Campbell/ whose telephone number is 571-272-4776. The examiner can normally be reached on Mon-Fri 5:30AM-2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thor S. Campbell/
Primary Examiner
Art Unit 3742

TSC